

REMARKS

Claims 1-17 are pending in this case. The examiner has withdrawn claim 12 from consideration as a result of a restriction requirement made in paper number 12.

The examiner has rejected claims 1-11 and 13-17 under 35 USC §112, as indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. First, the examiner argues that the term "household devices" of claim 1 is not clear. However, applicants can define the invention with whatever terms they choose so long as the terms are not used in ways that are contrary to accepted meanings in the art. MPEP §2173.01. Indeed the MPEP sets out the essential inquiry for definiteness of claim language. MPEP §2173.02. The definiteness of claim language must be analyzed, not in a vacuum, but in light of:

- (A) The content of the particular application disclosure;
- (B) The teachings of the prior art; and
- (C) The claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made. MPEP §2173.02.

In this instance, the disclosure describes a variety of household device types for which this invention is suitable. Specifically see page 11, lines 10-18, of applicants disclosure. Thus, the claims set out and circumscribe the subject matter of the invention with clarity and precision.

Furthermore, the examiner argues that the terms "molded-on functional elements," "closed lower side" and "cover plate" are also indefinite. With respect to the

the term "molded on functional elements" the applicants have described these in the specification on page 9, lines 26-36. Therefore, the content of the specification adequately conveys the subject matter of the invention with clarity and precision.

Additionally, the examiner argues that the applicants description of the sheet having a "closed lower side" is confusing. However, applicants submit corrected figures 1 and 2 that illustrate the invention.

Additionally, the examiner argues that the term "cover plate" is indefinite as it implies a certain amount of visibility but it is not clear whether the cover plate is a separate structure or is an integral part of the household device. However, page 10, lines 32-45, of applicants specification discloses that the cover plate is usually connected by molded-on elements for fastening. Therefore, applicants respectfully assert that the claims particularly point out and distinctly claim the subject matter in light of these remarks and the amendment to the claims.

The examiner has rejected claim 13-17 as reciting a "use" however, claims 13-17 have been amended in order clearly set forth the claimed subject matter. The term "utilizing" is definite under MPEP §2173.05(q) and *Ex parte Porter* 25 USPQ2d 1144 (BPAI 1992).

The examiner has rejected claims 1-11 and 13-17 under 35 USC 103(a) as unpatentable over Meier et al (USP 5,830,552). However, applicants wish to request reconsideration of this rejection for the reasons outlined below.

Applicants assert that the examiner has failed to establish a *prima facie* case of obviousness. Three requirements must be fulfilled in order for a *prima facie* case of

obviousness to be satisfied. First, there must be some suggestion or motivation in the references themselves or available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art references combined must teach or suggest all the claim limitations. MPEP §2143. Both the suggestion to carry out the claimed process and the reasonable expectation of success must be found in the prior art and not based on the applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). Additionally, the level of ordinary skill in the art cannot be relied upon to provide the suggestion to combine references. *Al-Site Corp. v. VSI Int'l Inc.* 174 F.3d 1308, 50 USPQ2d 1161, 1171 (Fed. Cir. 1999). With respect to the instant invention, applicants are convinced that the examiner has failed to meet this burden.

The examiners' remarks incorporate a hindsight view of the prior art that encompasses the applicants' disclosure. The examiner suggests that because a general use for a cover plate is disclosed in Meir, it would be obvious for one of ordinary skill in the art to incorporate the functional elements of applicants invention. There are three possible sources for motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art. *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457-1458 (Fed. Cir. 1988). In this instance the examiner has failed to identify any of these sources as providing a motivation to combine the reference with the knowledge of one of ordinary skill in the art.

In support of this argument the examiner cites Column 4, lines 54-59 which describes the leg of the inner frame or the injection molded on strip has the necessary sections for fixing the plate to the kitchen appliance casing. However, the disclosure merely describes the means by which the plate is fixed to a kitchen furniture item. The attachment structure is merely incidental to the structure of the frame.

In contrast, the instant invention discloses a reinforcer which has the structure of a sheet, box or crate which integrates molded-on functional elements pertaining to dispenser boxes, condensation boxes, apparatuses for an integrated means of conveying water, or retaining elements for valves or elements to fasten the cover plate to the device or fastening cables or tubing which is integrated into the reinforcer or the upper part of a functional element is integrated into the reinforcer. Thus, the general disclosure of a frame for attachment would not suggest to one of ordinary skill in the art to produce the reinforcer with integrated molded-on functional elements of the instant invention. Nor would it suggest to one of ordinary skill in the art a molded-on functional element that is used for attachment. As a result, the examiner has failed to establish a motivation to modify the Meir reference to that of the instant invention.

One of ordinary skill in the art would not have a reasonable expectation of success of producing the instant invention in light of the disclosure of Meir. Meir requires a wooden core plate which may have a top surface of glass, plastic or metal. In contrast, the instant invention is composed of (1) a decorative part and (2) a reinforcer having the structure of a sheet or box or crate. The decorative part is comprised of a decorative layer applied on a support. The support and the reinforcer is

composed of a thermoplastic polymer.

Applicants wish to note that the comments regarding the core plate included in the paper number 4 were not intended to be an admission. The comments were meant to refer to the examiner's argument that was contained in the office action.

The Meir reference does not teach or suggest all the limitations of the rejected claims. Claim 1, from which claims 2-11 depend, contains the element of molded-on functional elements where the reinforcer has the structure of a sheet or box or crate and has a closed lower side. The examiner argues that while the reference does not specifically mention molded-on functional elements, Meir discloses that the leg of the frame has the necessary section or profiles for fixing the plate to the kitchen appliance casing. However, as discussed above, mere attachment of the cover to a casing does not suggest functional elements for the operation of a kitchen appliance. The fact that a prior art device could be modified so as to produce the claimed device is not a basis for an obviousness rejection unless the prior art suggested the desirability of such a modification. *In re Gordan*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

Therefore, the examiner has failed to make out a case of *prima facie* obviousness.

In response to the examiner's requirement for information under 37 CFR 1.105 the applicants have provided an additional color drawing and a description of the process of hot plate welding. Applicants have previously filed FORM PTO-1449.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit Account No. 11-0345. Please credit any excess fees to such deposit account.

KLEMM et al.,

Serial No. 09/640,092

Respectfully submitted,

KEIL & WEINKAUF

A handwritten signature in black ink, appearing to read 'Lesley E. Shaw', written in a cursive style.

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

13. A method of [using] utilizing a cover plate as claimed in claim 1, which comprises firstly securing integrated, molded-on functional elements to the reinforcer and then bonding the reinforcer to the decorative part by attaching a snap connector.
14. A method of [using] utilizing a cover plate as claimed in claim 1 as constituent of a household device.
15. A method of [using] utilizing a cover plate as claimed in claim 14 as constituent of household dryers.
16. A method of [using] utilizing a cover plate as claimed in claim 14 as constituent of a washing machine.
17. A method of [using] utilizing a cover plate as claimed in claim 14 as constituent of a dishwasher.

COPY OF ALL CLAIMS

1. A cover plate for household devices, comprising a decorative part and a reinforcer with integrated, molded-on functional elements, where the reinforcer has the structure of a sheet or box or crate and has a closed lower side.
2. A cover plate as claimed in claim 1, where the decorative part is composed of a support, of a decorative layer applied thereto, and of a heat-cured layer situated on the decorative layer.
3. A cover plate as claimed in claim 2, where the decorative part also has an intermediate layer between the support and the decorative layer.
4. A cover plate as claimed in claim 1, where the support is composed of a thermoplastic.
5. A cover plate as claimed in claim 1, where the reinforcer has the structure of a sheet.
6. A cover plate as claimed in claim 1, where the reinforcer has the structure of a box or crate.
7. A cover plate as claimed in claim 1, where the reinforcer also has ribs.
8. A cover plate as claimed in claim 1, where the integrated, molded-on functional element comprises a dispenser box.
9. A cover plate as claimed in claim 1, where the integrated, molded-on functional element comprises a condensation box.
10. A cover plate as claimed in claim 1, where the integrated, molded-on functional element has an apparatus for an integrated water duct.

11. A cover plate as claimed in claim 1, where the reinforcer is composed of thermoplastic.
13. A method of utilizing a cover plate as claimed in claim 1, which comprises firstly securing integrated, molded-on functional elements to the reinforcer and then bonding the reinforcer to the decorative part by attaching a snap connector.
14. A method of utilizing a cover plate as claimed in claim 1 as constituent of a household device.
15. A method of utilizing a cover plate as claimed in claim 14 as constituent of household dryers.
16. A method of utilizing a cover plate as claimed in claim 14 as constituent of a washing machine.
17. A method of utilizing a cover plate as claimed in claim 14 as constituent of a dishwasher.